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USSR WEEKLY REVIEW

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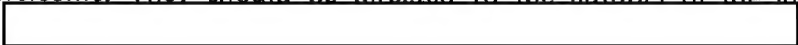
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This publication is prepared by the USSR Division, Office of Regional and Political Analysis, with occasional contributions from other offices within the National Foreign Assessment Center. The views presented are the personal judgments of analysts on significant events or trends in Soviet foreign and domestic affairs. Although the analysis centers on political matters, it discusses politically relevant economic or strategic trends when appropriate. Differences of opinion are sometimes aired to present consumers with a range of analytical views. Comments and queries are welcome. They should be directed to the authors of the individual articles or to 

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The Soviet Constitution Revisited

The recently adopted Soviet Constitution tracks very closely with the draft that was published in June and discussed at great length in the Soviet media over the ensuing four months.* The final document does differ from the original draft in several significant respects, and the amendments, if conscientiously implemented, could have a considerable impact on the Soviet system. This essay identifies these amendments and speculates on why the changes were made.

Brezhnev's speeches at the Supreme Soviet sessions in October offered many detailed explanations of why certain changes were made while other proposed amendments were rejected. According to Brezhnev, some 400,000 proposals for amendments of the draft had been received, and the Constitutional Commission "after careful study" recommended that 110 articles be amended and one new article be added.

In the course of his account of the reasons for the Constitutional Commission's rejection of certain proposals, Brezhnev rejected the notion that Soviet society had reached a point at which wages and pensions could be equalized. Brezhnev asserted that the USSR was at the stage of "developed socialism," not communism, and therefore still must determine wages and pensions according to a person's skills.

On the other hand, in addressing proposals to abolish personal (private) plots, Brezhnev noted that such plots had "a useful role to play in our economy." He added

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that those who farmed such plots should receive assistance from state and collective farms. In response to objections that such plots promote profiteering, Brezhnev merely noted that the appropriate government agencies should enforce the law against illegal practices.

Brezhnev also took issue with suggestions to eliminate or sharply limit the competence of republics and to abolish the Supreme Soviet's Council of Nationalities in keeping with the concept of "an integral socialist state." He termed the notions behind these proposals "mistaken" in view of the continued existence of national differences, and he cited Lenin to the effect that the merging of nationalities must not be "artificially" accelerated.

Brezhnev noted that proposals had been rejected which would have lengthened the term of office of the deputies elected to local soviets to five years in the interest of increasing their effectiveness. He claimed that this would have restricted the total number of people exposed to the experience of working in local soviets and added that deputies who have worked well can always be elected to a second term of office.

The most important proposed change that Brezhnev mentioned was for transferring government functions directly to party organs--for example, by giving the CPSU Politburo legislative power. Brezhnev said that proposals for such changes were "profoundly erroneous" because they would introduce confusion into the concept of the party's role and obscure the importance and functions of government agencies and the soviets themselves. He noted that the party had decided in Lenin's day that it would guide but not supersede the soviets and had separated the functions of the party and of the state organs. Brezhnev added that this Leninist principle was recorded in the CPSU rules and was re-emphasized by the latest party congresses, and should be reflected in the new Constitution.

Brezhnev also rejected a number of "well-meaning" but "inappropriate" proposals on the grounds that they had no place in the "basic law of the state." Among these were statements that criticized government or other agencies, cited specific instances of abuse of office, or proposed remedies for real or imagined problems--for example, to improve the lot of Soviet war veterans.

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In an allusion to foreign critics of the new Constitution, Brezhnev stated that the Constitution's rights could not be used to undermine socialism. No one, he commented, should expect the role of the party to be weakened or the power of the state to wither away--as, he alleged, was desired by *The New York Times* and "some comrades in the ranks of the international working-class movement." Brezhnev affirmed that the party would have a growing role to play as the Soviet people work toward communism and that the state's expansion, rather than withering away, would lead to communist self-government.

Brezhnev's report on the constitutional changes concluded with a statement that while communism was not just around the corner, the Soviet Union had come a long way since the Bolshevik Revolution in 1917, and everything was moving forward according to schedule. In sum, Brezhnev was saying that the Constitution would be little more than a reaffirmation of the status quo, not an occasion of significant change.

Against the background of the various changes that were adopted following the nationwide discussion of the new Constitution, it is possible to proceed to a more detailed examination of each article of the finally approved text--bearing in mind, however, that the actual impact of the Constitution on Soviet society will depend on the willingness of the top leadership to back up its provisions in practice. The following discussion of the main features of the Constitution is structured according to the organization of the text itself.

The Preamble

The text refers to the establishment of "the dictatorship of the proletariat" after the Bolshevik Revolution in 1917 and mentions other milestones in the USSR's history that were passed over in the original draft. More significantly, it defines a "classless communist society" as one in which there is "public, communist self-government." While open to various interpretations, this formulation appears to put the present leadership on record as favoring more participation by the man in the street in the administration of the system.

I. Principles of the Social Structure and Policy of the USSR

1. The Political System:

As in the original draft, Article 6 describes the Communist Party as "the leading and guiding force of Soviet society and the nucleus of its political system." It now, however, also stipulates that "all party organizations shall function within the framework of the Constitution"--a qualification that Brezhnev had inserted. The amendment, which is in keeping with other efforts during the Brezhnev years to sharpen the distinction between party work and the tasks of other institutions or organizations, could result in a significant reinforcement of the injunction against "petty tutelage" over government or other agencies. At present, party officials have almost exclusive say on where the line is drawn between proper supervision and undue interference, and the decisions, not surprisingly, usually favor the party. The amendment could have a dampening effect on actions by party officials that contradict the "principle of one-man management" at government or other installations.

The amendment to Article 6 also could have significant implications for internal party matters. By stipulating that the party is not above the law but subject to it, the amendment seems to indicate that party officials will not, as in the past, have recourse to the party's own rules to excuse violations of legality. This would be in keeping with the emphasis in recent years on the accountability of party officials to the membership of the party organization in question, but it could provide a legal basis for party members bringing suits against party officials in cases where the members fail to obtain redress through party channels for real or imagined wrongs. At present, party members have no recourse in such cases beyond an appeal through the local party control commissions to the CPSU Committee of Party Control--not always the most sympathetic court of last resort.

Another change of note is the transposition of the article concerning work collectives from the chapter on the economic system to the chapter on the political system, where it has become Article 8. The new Article 8 stipulates that work collectives shall participate in deciding

state and public affairs, planning production and social programs, training and assigning personnel, and making decisions on the management of an enterprise, the improvement of working and living conditions there, the use of its funds, and so forth. Some of these rights had been mentioned in the original draft under Article 16; now they are spelled out in more detail--as Brezhnev had recommended. The reference to the role of work collectives in "deciding state and public affairs" is new, however, and could refer to matters outside a specific enterprise. In any event, the new Constitution establishes the credentials of the work collectives as political organs, as well as units authorized to participate in the operation of the enterprises at which they are located.

2. The Economic System:

An amendment to Article 12 points out that collective farms, "just like other land users, are obliged to use land effectively, take care of it, and enhance its fertility." This is in keeping with the emphasis on resource management and conservation in other sections of the Constitution. The amendment also establishes a constitutional basis for taking action against the farms that fail to carry out this obligation. It could, for example, serve as a pretext for confiscating portions of land for industrial or other nonagricultural purposes, or for converting offending collective farms into state farms.

Article 13, on personal property, has been revised to establish wages as the basis of private property, rather than merely one of its many forms. It also incorporates the line that Brezhnev had taken on the question of personal (private) plots. While retaining the language in the original draft that grants the rights to farm personal plots to all citizens--not just those living on collective farms, as under the 1936 Constitution--the new Constitution also stipulates that "state and collective farms shall provide assistance to the citizens in working their small holdings." This is a clear indication that these plots are an integral part of the agricultural sector of the economy, not just a temporary aberration in the socialist countryside.

On the other hand, Article 17 has been amended to give the state authority to regulate handicrafts and

other forms of private enterprise that are engaged in by individual citizens or families to ensure that such activities "serve the interests of society." This is a somewhat more conservative approach than the one appearing in the original draft, and presumably reflects concern over profiteering in those areas. It also suggests that private enterprise in handicrafts, in the provision of services to the public, and so forth, is tolerated only for the moment as a necessary evil and is in no way to be encouraged by the state. The tone of this provision is thus in considerable contrast to the tone of the language about the private plots.

Other amendments to articles in this chapter on the economic system instruct the state to encourage "innovation and a creative attitude toward work" (Article 14), improve "the forms and methods of economic management" (Article 15), and use "other economic levers and incentives"--as well as cost accounting--in managing the economy (Article 16). In each case, the addition is no more than the minimum required to incorporate an idea that had been put forward during the public discussion of the new Constitution. Even so, these amendments may represent at least a partial victory for would-be reformers who argue that one way to change the system is to gain endorsement of their views in the Constitution.

3. Social Development and Culture:

The changes in this chapter appear to have little significance. A statement that "education in the USSR is free" has been dropped from Article 25, but this guarantee has been retained in Article 45 in the chapter on the basic rights and obligations of Soviet citizens.

4. Foreign Policy:

Article 28 includes a new clause on "defending the state interests of the Soviet Union," an objective that is listed immediately after "ensuring international conditions favorable for building communism in the USSR" and just before "strengthening the position of world socialism." It also mentions the goal of "achieving general and complete disarmament," putting this objective immediately after "preventing wars of aggression" and ahead of "consistently implementing the principle of

peaceful coexistence of states with different social systems." Both changes are in keeping with the present order of priorities in Moscow, but they do give this chapter of the new Constitution a somewhat more conservative tone than that of the original draft.

5. Defense of the Socialist Fatherland:

There are no changes of any significance in this chapter. It, like the original draft, provides a justification for the defense effort, notes that the armed forces have a duty to be ready to deal with any aggressor, and reassures the military that the armed forces will be provided with whatever is necessary for that purpose.

II. The State and the Individual

6. Citizenship in the USSR and the Equality of Citizens' Rights:

The only change of any consequence in this chapter is an amendment to Article 35, which calls for creating conditions that will enable mothers to work and for gradually reducing the working hours for women with small children. Both ideas were put forward during the public discussion of the new Constitution and reflect Soviet concern over the low birthrate in industrialized parts of the USSR and the labor shortages that are expected during the 1980s. The amendment would not only make it easier for working women to return to their jobs soon after bearing children, but also encourage them to have the children required to improve the low birthrate.

7. Basic Rights, Freedoms, and Duties of Citizens of the USSR:

Article 40, on the right to work, now takes a somewhat more positive approach than previously by stating that no person's pay will be less than the state-established minimum. Article 41, on the right to rest and leisure, also strikes a somewhat more positive note. It establishes a work week "not exceeding 41 hours for workers and other employees" rather than a "41-hour work week" as in the original draft. On the other hand, Article 44, on the right to housing, has been qualified by the addition of wording to the effect that "citizens of the USSR shall take good care

of the housing allocated to them." Article 60, on the citizen's duty to work and observe labor discipline, has been made tougher, making the point that "evasion of socially useful work is incompatible with the principles of a socialist society." By the same token, Article 61 now instructs Soviet citizens to make "thrifty use of the people's wealth"--not merely to combat theft and squandering of state or other forms of public or commonly owned property.

The most important change in this section, however, is in Article 49, on the citizen's right to criticize the work of state agencies and public or social organizations. This article not only prohibits persecution of those who criticize the work of such units, but also stipulates that the persons guilty of any persecution are to be called to account, presumably in a court of law. Certain forms of criticism will still be out-of-bounds, but the amendment may make the average Soviet official a bit more careful about how he responds to criticism from the nonpolitical man in the street.

A change in Article 52, on freedom of conscience, may signify considerable progress in that area--by "guaranteeing" this freedom, rather than simply "recognizing" it. The potential impact is tempered, however, by the official Soviet attitude towards religion--an attitude reflected by the provisions of Article 52, which allow Soviet citizens to profess or not to profess any religion, and to conduct religious worship or atheistic propaganda. This "evenhanded" approach allows Soviet "believers" to practice their religion in private, but it is only the "nonbelievers" who have access to the media and other resources of the state for putting their case before the public.

III. The National and State Structure of the USSR

8. The USSR--a Federal State:

The changes in this section appear to have little, if any, political significance.

9. Union Soviet Socialist Republics:

Article 77 has been amended to stipulate that the union republics are to "ensure comprehensive economic and social development" on their territory, and in matters within their jurisdiction to "coordinate and control

the activity of enterprises, institutions, and organizations" of all-union subordination on their territory. This will give the republic authorities at least some voice in the management of installations whose activities often disrupt local plans--a point of major concern to republic and other local officials during the public discussion of the new Constitution.

10. Autonomous Soviet Socialist Republics:

The only changes of any consequence are the ones made in Article 83 that give the autonomous republics rights comparable to those granted to the union republics under the above-mentioned revised Article 77.

11. Autonomous Regions and Autonomous Areas:

There are no changes of any consequence in this section.

IV. Soviets of People's Deputies and Electoral Procedure

12. The System of Soviets of People's Deputies and the Principles of Their Work:

There are no changes of any consequence in this section.

13. The Electoral System:

Article 96 now stipulates that candidates for election to the USSR Supreme Soviet must be 21 years of age, and Article 100 grants the right to nominate candidates to meetings of servicemen in their military units, as well as the various civilian groups mentioned in the original draft. Article 101 states that a citizen may not, as a rule, be elected to more than two soviets--for example, the national legislature and either a republic or a local soviet, but not both. Article 101 also has been revised to include representatives of the servicemen in military units, as well as those of the various civilian organizations and work collectives, on the electoral commissions responsible for conducting the elections.

The most significant change in this section, however, may be the addition of a new article (Article 102), which stipulates that the "electors give mandates

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(that is, instructions) to their deputies." The new article also states that "the appropriate soviets of people's deputies shall examine the electors' mandates, take them into account in drafting economic and social development plans and in drawing up the budget, organize the implementation of the mandates, and inform the citizens about it." This would appear to give the Soviet voters the right to issue "instructions" to their representatives on a question, and to demand an accounting from them on how those instructions have been carried out. The real test will come with the implementation, but this particular change could provide a basis for a more responsive attitude on the part of officials--at least at the local level.

14. People's Deputies:

Article 107 now stipulates that deputies shall report on their own work and the work of the soviet to the work collectives and public or social organizations that nominated them, as well as to their constituents. This will lead the deputies to be particularly responsive to the groups that had nominated them--the all-important step in the electoral process as long as Soviet elections have just one candidate standing for a particular office.

V. The Sovereign Authorities and Administrative Bodies of the USSR

15. The Supreme Soviet of the USSR:

Article 121, on the authority of the Presidium of the Supreme Soviet, has been revised to give the Presidium the responsibility for naming the date for elections to the Supreme Soviet, and to authorize the Presidium to exercise "other powers vested in it by the Constitution and laws of the USSR"--a somewhat more open-ended approach than the one that had been taken in the original draft. Article 125, on the standing commissions set up by the Supreme Soviet, has been expanded and now states that the recommendations of the commissions are "obligatory for consideration by state and public bodies, institutions and organizations." Article 125 also makes the point that the commissions are to be informed "within the set period of time about the results of the study of their recommendations and the action taken on them."

Both changes should promote tighter control by the national legislature over state and other public agencies, as should the transfer of the people's control apparatus from the executive branch to the legislative branch--a change that was put forward in the original draft and retained in the document ratified on 7 October.

16. The Council of Ministers of the USSR:

Article 129, on the formation of the USSR Council of Ministers and its composition, now includes a statement that "the USSR Council of Ministers shall tender its resignation to a newly elected Supreme Soviet of the USSR at its first session." This is in keeping with past practice, but the insertion of this formulation into the new Constitution is further evidence of the effort to emphasize the subordination of the executive branch to the legislative branch of the government.

The most important change in this section, however, is probably the one that has been made in Article 135, which discusses the authority of the USSR Council of Ministers in coordinating and directing the work of all-union and union-republic ministries, state committees, and other government offices. Article 135 now says that these ministries and other agencies are responsible for administering a sector of the economy, or for "inter-branch" relations. The article avoids details on which ministries or other agencies are responsible for "intersectoral problems"--as well as, or instead of, a given sector of the economy. The revised Article 135, however, recognizes that some government agencies have, or could have, authority cutting across branch lines. Meanwhile, by avoiding any reference to specific ministries or other such agencies, the new Constitution provides maximum flexibility when it comes to creating new offices or amalgamating existing ones--either for administering a sector of the economy, or for some form of "inter-branch" administration.

VI. Basic Principles of the Structure of the Sovereign Authorities and Administrative Bodies in Union Republics

17. Sovereign Authorities and Administrative Bodies of Union Republics:

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The only change of any consequence in this section is the insertion into Article 142 of a reference to union republic and republic ministries and other agencies that "exercise inter-branch control"--a change corresponding to the one made in Article 135 in the previous chapter, as discussed above.

18. Sovereign Authorities and Administrative Bodies of Autonomous Republics:

There are no changes of any significance in this section.

19. Local Authorities and Administrative Bodies:

Article 147 has been revised to give local soviets the right to ensure "the comprehensive, all-round economic and social development of the area under their jurisdiction"--a change in keeping with the changes made in Articles 77 and 83, as discussed above. Another change in this section worthy of note is the rewording of Article 149 to make the executive committees of local soviets responsible for reporting on their work at meetings of citizens at their places of work or residence, as well as to the soviets which elected them. Here again, the amendment would appear to provide a better foundation for subsequent efforts to make governmental bodies responsive to the people electing them.

VII. Justice, Arbitration, and Procurator's Supervision

20. Courts and Arbitration:

Article 152 now instructs judges and people's assessors to report on their work to their electors or the bodies that elected them, rather than just stating that these officials are responsible and accountable to their electors. The revised Article 152 also provides for the recall of judges and people's assessors--a change that is in keeping with the emphasis in the new Constitution on making government officials responsive to the citizenry, but which appears to run counter to the efforts of would-be judicial reformers to have judges and other judicial officials given more protection against outside interference in their dispensation of justice in the USSR.

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The would-be reformers also appear to have failed in their efforts to have a "presumption of innocence" clause written into the section of the Constitution dealing with the court system and the dispensation of justice.

21. The Procurator's Office:

There are no changes in this section.

VIII. The Emblem, Flag, Anthem, and Capital of the USSR

There are no changes in this section.

IX. The Force of and Procedure for Amending the Constitution of the USSR

The only change in this section is the deletion of a statement that the new Constitution would be in effect from the time of its adoption.

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Soviet Attempts To Control Japanese Trans-Siberian Land-
bridge Cargoes

The USSR's freight forwarding monopoly and three Japanese firms have asked for permission to establish a corporation to be known as the Nippon-Soviet International Transport Co. (NISOTRA). This firm would give the USSR closer control over containerized cargoes moving over the Trans-Siberian Landbridge (TSLB) between Japan, Iran, and Europe. The three Japanese firms are among 11 Japanese forwarding agents involved in transport of cargo over the TSLB. Once established, NISOTRA, like Soviet organizations in other countries, may attempt to move into other transport-related fields in Japan.

To incorporate, the firms need the permission of Japan's Ministry of Transport. The Ministry is aware that similar Soviet joint venture firms in Europe have moved into shipping agencies, cargo forwarding, container leasing, trucking, port cargo handling, and warehousing, and this it wants to avoid in Japan. Moreover, the merger is opposed by both the Japanese Shipowners' Association (JSA) and the Foreign Ministry. JSA claims that approval would result in serious injury to shipping and other sectors of the Japanese economy. The Foreign Ministry opposes it on grounds of national security.

The new firm would control most of the TSLB containerized cargo carried in Japan. The backers of NISOTRA say that it would provide quicker and cheaper transport of goods moving over the TSLB. This is important, they contend, because rising costs and appreciation of the yen compared with the dollar have made Japanese goods less competitive on world markets and the increased transport efficiency provided by NISOTRA would not only help restore some of the competitiveness but also could open new markets for Japanese goods.

The Japanese Foreign Investment Council will investigate the proposal because of a possible conflict with Japan's restrictive laws on foreign investment.

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